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William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222, SC-1170
Washington, DC 20554

CC Docket No 95-116

This correspondence is presented to the Federal Communications Commission (FCC) on behalf of Western Region Telephone Number Portability, LLC (Western Region) and the members thereof,[1] and Perot Systems Corporation (Perot) in regard to issues associated with the allocation/recovery of costs incurred for the development, implementation and administration of the Number Portability Administration Center/Service Management System (NPAC/SMS).

On May 15, 1997, Western Region and Perot entered into an agreement whereby Perot agreed to develop, implement and administer an NPAC/SMS for the Western Region consisting of Alaska, Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Oregon, Utah, Wyoming and Washington (the "Master Contract"). Each entity actually using the NPAC/SMS is designated a "User" and is required to enter into a User Agreement with Perot.[2] The Users compensate Perot for the NPAC/SMS services as set forth in the Master Contract, certain provisions of which are incorporated into the User Agreement. The Master Contract specifically provides that if Perot delivers an NPAC/SMS that is available for commercial use on October 1, 1997, Perot may commence billing the Users for the NPAC/SMS on October 31, 1997. Western Region and Perot agreed that

> [f]or each billing period, the amount that Perot will invoice the Users pursuant to each User Agreement will be determined by a FCC-determined or State PUC-determined allocation model provided by [Western Region] (the "Allocation Model"), that will allocate Perot's charges among the Users. [Western Region] shall provide the initial Allocation Model to Perot no later than October 29, 1997, and shall provide updated Allocation Models as required. . . . If [Western Region] does not provide an initial Allocation Model to Perot on or before October 29, 1997, the Parties agree to submit to arbitration, pursuant to Section 30.2, the determination of an allocation model that would allocate Perot's charges among the Users.[3]

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1 The members of Western Region are as follows: AT&T Communications of the Mountain States, Inc., Electric Lightwave, Inc., GTE Northwest Incorporated, ICG, MCI, NEXTLINK, Sprint United Management Company, Teleport Communications Group, U S WEST, Worldcom.

2 Additionally, a User Agreement must be signed prior to the commencement of testing with the NPAC/SMS.

3 The Master Contract further provides that an interim Allocation Model would be

(Master Contract, §5.3, a copy of which is attached.)

In coming to this agreement, the parties expected that an FCC decision would provide the necessary guidance for structuring an allocation model. In the absence of FCC or State PUC guidance, the allocation model issue must be decided by an arbitrator due to the restriction in the Western Region Operating Agreement that prohibits the LLC from voting on an allocation model. Each of the other regional LLCs created to cover the other 35 states are also required to deliver an allocation model to the regional NPAC/SMS vendor. [4]

Western Region and Perot are aware of the FCC's statement in the First Memorandum Opinion and Order on Reconsideration (FCC 97-74) (Recon Order), wherein the FCC noted that a Second Report & Order addressing the LNP cost issues would be adopted "well before a LEC is required by the deployment schedule to commence the provision of long-term number portability to the public in the Phase I markets." (Recon Order, ¶ 146.) However, regardless of when the service providers commence the provision of long-term number portability to the public, Western Region is required by the terms of the Master Contract to deliver an allocation model to Perot so that Perot may commence billing on October 31, 1997 for availability of the NPAC/SMS as of October 1, 1997. Further, under the terms of the Master Contract, it is possible that Perot may start billing and, therefore, require an allocation model before any service provider in the Western Region commences commercial portability.

In light of the foregoing, Western Region and Perot submit that there is an immediate need for an FCC- determined allocation formula. Without the provision of such a formula in the immediate future, each regional LLC will be required to create an interim formula, by agreement or by arbitration, which may or may not be consistent with the FCC's decision on this issue. The creation of a separate allocation model in each Region across the country will only complicate matters, with the likely result being multiple formulas requiring time-consuming true-ups upon issuance of the FCC's decision. Accordingly, Western Region and Perot request that the FCC issue an allocation model prior to October 31, 1997.

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subject to a retroactive true-up upon the issuance of a regulatory decision providing the structure for allocating NPAC/SMS costs. (Master Contract, Section 5.3.)

4 The October 29, 1997, date is considerably later than the dates for delivery of an allocation model in other regions, e.g., the Maryland Carrier Acquisition Corporation is required to deliver an allocation model by September 29, 1997. Additionally, like the Western Region, the Southeast regional LLC is prohibited by its Operating Agreement from voting on an allocation model and, therefore, the allocation model issue must be decided by an arbitrator if the FCC or all State PUCs in the Region fail to specify an allocation model on a timely basis.

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Robert W. Traylor

Robert W. Traylor, Chair
Western Region Telephone
Number Portability LLC